



Kansas Administrative Regulations
Kansas Department of Health and Environment

Notice to Reader

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Where possible KDHE will append changed regulations to the appropriate article. Once again, the lack of any attachments should not be construed as meaning there are no revisions.

Nothing contained herein should be construed as legal advice by KDHE. If you are not an attorney, you should secure competent counsel to interpret the regulations and advise you.

Office of Public Information
Kansas Department of Health & Environment

Notes

The *Kansas Register* notes the following changes:

28-46-38. **Inventory and assessment of class V injection wells.** 40 CFR 146.52, as in effect on April 1, 1993, is adopted by reference. (Authorized by and implementing K.S.A. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-39. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; revoked March 21, 1994.)

28-46-40. **Exempted aquifers.** (a) An aquifer may be designated by the secretary as exempt from protection as an underground source of drinking water. Criteria for exemption may include whether an aquifer:

(1) contains water with more than 10,000 milligrams per liter of total dissolved solid;

(2) produces mineral, hydrocarbon or geothermal energy; or

(3) is situated at a depth which makes the recovery of water economically impractical.

(b) These designations shall be first submitted to and approved by the administrator of the United States environmental protection agency. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1982; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986.)

28-46-41. **Sharing of information.** 40 CFR 145.14, as in effect on April 1, 1993, is adopted by reference. (Authorized by K.S.A. 65-171d; implementing K.S.A. 65-170g; effective May 1, 1982; amended, T-83-49, Dec. 22, 1982; amended May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-42. **Exclusion of oil and gas related wells.** The following class II injection wells shall be exempted from the provisions in article 46 of these regulations:

(a) any well which injects fluids brought to the surface in connection with the conventional production of oil or gas;

(b) any well which injects wastewaters from gas plants which are an integral part of production operations, unless those waters are classified hazardous at the time of injection; or

(c) any well which injects fluids to enhance the recovery of oil or natural gas. (Authorized by and

implementing K.S.A. 65-171d; effective, T-83-7, April 29, 1982; effective May 1, 1983; amended, T-86-47, Dec. 19, 1985; amended May 1, 1986; amended March 21, 1994.)

28-46-43. **Analyses to be performed by laboratory certified by the secretary.** If a sample analysis is required by the secretary for the purposes of any permit or application for a permit under these regulations, the analysis shall be performed by a laboratory which has been certified and approved by the secretary for conducting such sample analysis. (Authorized by and implementing K.S.A. 65-171d; effective March 21, 1994.)

28-46-44. **Sampling and analysis techniques.** (a) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136, as in effect on April 1, 1993, which is adopted by reference.

(b) Where 40 CFR part 136 does not contain sampling and analytical techniques for the parameter in question, or where it is determined by the secretary that the part 136 sampling and analytical techniques are inappropriate for the parameter in question, sampling and analysis shall be performed using validated analytical methods or other appropriate sampling and analytical procedures approved by the secretary.

(c) Alternate sampling and analytical techniques suggested by the permittee or other persons will be considered by the secretary. (Authorized by and implementing K.S.A. 65-171d; effective March 21, 1994.)

Article 47.—USE OF OIL AND GAS FIELD SALT WATER IN ROAD CONSTRUCTION AND MAINTENANCE PROJECTS

28-47-1. **Scope.** This article regulates the spreading of salt water, originating from the production of oil and gas, in road construction and maintenance projects. (Authorized by and implementing K.S.A. 1982 Supp. 55-904; effective, T-83-50, Dec. 22, 1982; effective May 1, 1983.)

28-47-2. **Definitions.** (a) "Person" means any state, county, township or municipal governing body, and any individual, firm, corporation, partnership, or other association of persons.

(b) "Road" means any highway, county road, township road, or oil or gas company lease road, or any private road under jurisdiction of the applicant.

(c) "Road construction" means any activity connected with developing a subgrade or base during the construction of a road or segment of road.

(d) "Road maintenance" means any activity related to stabilization of the surface of any publicly traveled road or segment of road after construction activities have ceased.

(e) "Lease road" means any formally maintained access road to wells, tank batteries and petroleum and oil field and salt water storage facilities areas under control and operation of a company actively engaged in the production, storage or transportation of oil, gas, or disposal of salt water. (Authorized by and implementing K.S.A. 1982 Supp. 55-904; effective, T-83-50, Dec. 22, 1982; effective May 1, 1983.)

28-47-3. Request for the use of salt water in road construction or maintenance. Any person desiring to use salt water, brought to the surface during the production of oil and gas, for purposes of road maintenance or road construction shall submit a request for the approval of such activity to the department of health and environment. The request shall be submitted 10 days prior to the time work is to begin and shall be accompanied by a plan meeting the requirements of K.A.R. 28-47-4. The request for approval may be submitted to the appropriate district office of the department. (Authorized by and implementing K.S.A. 1982 Supp. 55-904; effective, T-83-50, Dec. 22, 1982; effective May 1, 1983.)

28-47-4. Plan for use of salt water. A plan shall be submitted to the department prior to using salt water for road maintenance or road construction. The department shall, in writing, approve, deny or require any modification the department deems necessary in order to assure that the maintenance or construction operation will not cause surface or subsurface water pollution or soil pollution. A plan shall not be required for individual lease road maintenance projects which are limited to stabilizing lease roads. Each plan shall include at least the following: (a) A map outlining the roads included in the maintenance or construction project;

(b) a description of the method to be used in salt water spreading or incorporation;

(c) the amount of salt water estimated to be used per mile or fraction of a mile;

(d) the frequency of salt water use for each route described in (a);

(e) security methods to be used by the applicant to prevent unauthorized spraying, dumping, or discharge of salt water;

(f) a copy of any local or county regulation which also affects the applicant's activities; and

(g) the name of each authorized salt water hauler. (Authorized by and implementing K.S.A. 1982 Supp. 55-904; effective, T-83-50, Dec. 22, 1982; effective May 1, 1983.)

28-47-5. Notification to department. Any authorized person spreading salt water in connection with road construction or maintenance shall notify the department, in writing, when any of the following situations arise: (a) The person ceases to use salt water in maintaining any or all of the roads designated on the plan submitted in fulfilling requirements set forth in K.A.R. 28-47-4(a);

(b) the person desires to amend the plan submitted under K.A.R. 28-47-4(a) to include additional roads not covered in the original plan;

(c) the person desires to use a salt water hauler other than the one designated in the original plan;

(d) upon completion of any designated phase of road construction during which the use of salt water was approved;

(e) upon discovery that an illegal act of salt water dumping, spraying, or discharge has occurred on or adjacent to the road or road right-of-way covered under the plan; or

(f) when an accidental discharge of salt water occurs during road construction or road maintenance operations. In such a case, the applicant or contractor shall provide the appropriate district office of the department of health and environment with a written report of the incident. (Authorized by and implementing K.S.A. 1982 Supp. 55-904; effective, T-83-50, Dec. 22, 1982; effective May 1, 1983.)

28-47-6. Discontinuance of salt water spreading. The secretary may order the discontinuance of salt water spreading if:

(a) A violation of the provisions of K.A.R. 28-47-5 occurs; or

(b) the potential exists for water pollution, due to conditions which were not apparent at the time the request to spread salt water was made. (Authorized by and implementing K.S.A. 1982 Supp. 55-904; effective, T-83-50, Dec. 22, 1982; effective May 1, 1983.)

28-47-7. Waiver of specific requirements. The secretary may grant an exception to a requirement provided in these regulations if a person desiring a waiver can show good cause for the granting of such an exception, and the person presents an alternative to the requirements which will insure that the objectives of these regulations will be achieved. Requests for an exception shall be made, in writing, to the secretary. The secretary shall grant or deny the request within 15 days from the receipt of the request and shall notify the person requesting the exception, in writing, of the decision. If the request is denied, the secretary shall specify in the notice the reasons for the denial of the request. (Authorized by and implementing K.S.A. 1982 Supp. 55-904; effective, T-83-50, Dec. 22, 1982; effective May 1, 1983.)

Article 48.—SPILL REPORTING

28-48-1. Definitions. The following words and phrases when used in these regulations, have the meanings respectively ascribed to them in this section.

(a) "Owner" means individual, partnership, firm, trust, company, association, corporation, institution, political subdivision or agency which is financially responsible for the material or facility.

(b) "Person responsible" means person or organization which has been placed in control of the material or facility by the owner.

(c) "Waters of the state" means all streams and springs, and all bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1986.)

28-48-2. Action required. All sewage, substances, materials, or wastes, as set forth in 65-171d, regardless of phase or physical state, which are, or threaten to contaminate or alter any of the properties of the waters of the state or pollute the soil in a detrimental, harmful, or injurious manner or create a nuisance, shall be reported in the following manner:

(a) The owner or person responsible for the discharge or escape of materials detrimental to the quality of waters of the state or pollution of the soil under conditions other than provided by a valid permit issued by the secretary of health and environment, shall report the discharge or escape to the Kansas department of health and environment.

(b) Emergency or accidental discharge of materials which are detrimental to the quality of waters of the state or tend to cause pollution of the soil shall be immediately reported to the Kansas department of health and environment by the owner, owner's representatives, or person responsible. In the event the pollution causing material is in transit or in storage within the state, the owner, carrier, or person responsible for storage shall be responsible for immediate notification to the Kansas department of health and environment that the pollutant will gain admittance to the waters of the state or the soil. (Authorized by and implementing K.S.A. 1984 Supp. 65-171d; effective May 1, 1986.)

Article 49.—TRAUMATIC HEAD INJURY FACILITIES

28-49-1 to 28-49-8. (Authorized by and implementing K.S.A. 65-461; effective, T-87-18, July 1, 1986; effective May 1, 1987; revoked May 10, 1996.)

Article 50.—ASBESTOS CONTROL

28-50-1. Definitions. As used in these regulations:

(a) "Accredited asbestos worker" means a person who has fulfilled the training requirements and successfully completed the written examination requirements prescribed under federal law for persons who conduct response actions with respect to friable asbestos-containing material in elementary and secondary schools.

(b) "Agent" means any person who is not an employee of a business or public entity that has been specifically authorized by the entity to act in its behalf in regard to carrying out any activity which requires the person to be present in the work area while an asbestos removal project, an asbestos encapsulation project, or an asbestos related dismantling project is in progress.

(c) "Appropriate protective clothing" means outer clothing intended to be worn by a person who is engaged in asbestos removal or encapsulation activities. The purpose of the protective clothing is to facilitate the removal of asbestos fibers from the person before that person moves from an area that contains asbestos fibers into an area that is intended to remain free of these fibers. Protective clothing shall consist of coveralls or a similar whole body covering, head covers and foot covers. Protective clothing shall be worn at all